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09/701,098	03/09/2001	Wolfgang Klauck	H3380 PCT/US	6195

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EXAMINER

CHORBAJI, MONZER R

ART UNIT PAPER NUMBER

1744

DATE MAILED: 01/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**BEST AVAILABLE COPY**

# Office Action Summary

Applicati n No.

09/701,098

Applicant(s)

KLAUCK, WOLFGANG

Examiner

MONZER R CHORBAJI

Art Unit

1744

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 09 March 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 9-35 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 9-35 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. §§ 119 and 120

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 9-15, 18, 25, and 27-32 are rejected under 35 U.S.C. 102(b) as being anticipated by Streit et al (U.S.P.N. 4,178,264).

With respect to claims 9 and 25, Streit et al teaches a process (examples I-III) and a dimensionally stable composition (col.3, lines 42-44) for the controlled humidification of indoor air (col.3, lines 48-52) including 1.5-15% by weight of alkali metal carboxylates (col.2, lines 28-30 and lines 43-44) and 55 to 95% by weight of water (col.3, lines 10-12).

With respect to claims 10-15, 18, 25, and 27-32, Streit et al teaches the following: insecticides (col.4, line2), additives are present in amounts of up to 20% by weight (col.4, lines 1-2), sodium carboxylates (col.2, lines 43-44), 2 to 10% by weight of alkali metal carboxylates (col.2, lines 28-30), 70 to 98% by weight of water (col.3, lines 10-12), composition is placed on a suitable support in a room filled with air (col.3, lines 46-48), the composition is exposed in a suitable holder to a stream of the indoor air supply (col.3, lines 48-52), and the composition has a disc shape (col.3, lines 57-59).

### ***Claim Rejections - 35 USC § 103***

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3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. Claims 16-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Streit et al (U.S.P.N. 4,178,264) in view of Farmer (U.S.P.N. 6,123,906).

The teachings of Streit et al have previously been set forth with regard to claims 9-15, 18, 25, and 27-32. With regard to claims 16-17, Streit et al fails to disclose heating or cooling the indoor air supply. However, Farmer teaches that the stream of indoor air is heated or cooled before being applied to the freshener (col.1, lines 8-10 and lines 44-48). Thus, it would have been obvious to one having ordinary skill in the art to modify the process of Streit et al to include central heaters or air conditioners in order to provide a simple and much more efficient way of exposing the dimensionally stable composition (Farmer, col.1, lines 24-26).

6. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Streit et al (U.S.P.N. 4,178,264) in view of Hautmann (U.S.P.N. 4,117,110).

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With respect to claim 19, Streit et al fails to disclose a pH range values for the composition. However, Hautmann discloses that the pH-value is not higher than 9 (col.2, lines 31-33). Thus, it would have been obvious to one having ordinary skill in the art to modify the process of Streit et al by preventing the pH-value from being too high in order to exactly determine the desired surplus of stearic acid (Hautmann, col.7, lines 6-9).

7. Claims 20 and 21-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Streit et al (U.S.P.N. 4,178,264) in view of Hautmann (U.S.P.N. 4,117,110).

With respect to claim 20, Streit et al teaches the following: a process (examples I-III) for the controlled humidification of indoor air (col.3, lines 48-52), 2-10% by weight of sodium metal carboxylates (col.2, lines 28-30 and lines 43-44), 70 to 98% by weight of water (col.3, lines 10-12), and up to 20% of insecticides (col.4, lines 1-2). However, fails to teach a specific range the pH-values. However, Hautmann discloses that the pH-value is not higher than 9 (col.2, lines 31-33). Thus, it would have been obvious to one having ordinary skill in the art to modify the process of Streit et al by preventing the pH-value from being too high in order to exactly determine the desired surplus of stearic acid (Hautmann, col.7, lines 6-9).

With respect to claims 21-22, Streit et al teaches that the composition is placed on a suitable support in a room filled with air (col.3, lines 46-48) and is exposed in a suitable holder to a stream of the indoor air supply (col.3, lines 48-52).

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8. Claims 23-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Streit et al (U.S.P.N. 4,178,264) in view of Hautmann (U.S.P.N. 4,117,110) and further in view of Farmer (U.S.P.N. 6,123,906).

With respect to claims 23-24, both Streit et al and Hautmann fail to teach to heating or cooling the indoor air supply. However, Farmer teaches that the stream of indoor air is heated or cooled before being applied to the freshener (col.1, lines 8-10 and lines 44-48). Thus, it would have been obvious to one having ordinary skill in the art to modify the process of Streit et al to include central heaters or air conditioners in order to provide a simple and much more efficient way of exposing the dimensionally stable composition (Farmer, col.1, lines 24-26).

9. Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Streit et al (U.S.P.N. 4,178,264) in view of Martin et al (U.S.P.N. 5,788,155).

With respect to claim 26, Streit et al fails to teach packaging the composition in an air-tight and water proof pack. However, Martin et al teaches sealing the composition from the outer environment (abstract, lines 7-12) such a sealing mechanism is capable of maintaining the composition in an air-tight and water proof conditions. Thus, it would have been obvious to one having ordinary skill in the art to modify the composition of Streit et al to include an outer peelable vapor-impermeable membrane in order to prevent volatilization of the air freshener medium through the permeable membrane from the reservoir enclosure (Martin et al, col.2, lines 45-49).

10. Claim 33 is rejected under 35 U.S.C. 103(a) as being unpatentable over Streit et al (U.S.P.N. 4,178,264) in view of Hautmann (U.S.P.N. 4,117,110).

With respect to claim 33, Streit et al fails to teach a specific range for the pH-values. However, Hautmann discloses that the pH-value is not higher than 9 (col.2, lines 31-33). Thus, it would have been obvious to one having ordinary skill in the art to modify the composition of Streit et al by preventing the pH-value from being too high in order to exactly determine the desired surplus of stearic acid (Hautmann, col.7, lines 6-9).

11. Claims 34-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Streit et al (U.S.P.N. 4,178,264) in view of Hautmann (U.S.P.N. 4,117,110) and further in view of Martin et al (U.S.P.N. 5,788,155).

With respect to claim 34, Streit et al teaches the following: an article (the composition and the holder) for the controlled humidification of indoor air (col.3, lines 48-52), 2-10% by weight of sodium metal carboxylates (col.2, lines 28-30 and lines 43-44), 70 to 98% by weight of water (col.3, lines 10-12), and up to 20% of insecticides (col.4, lines 1-2). However, Streit et al fails to teach the following: a specific range the pH-values and the composition being contained in an air-tight and water proof pack. Hautmann discloses that the pH-value is not higher than 9 (col.2, lines 31-33), but fails to teach a composition contained in an air-tight and water proof pack. However, Martin et al teaches sealing the composition from the outer environment (abstract, lines 7-12) such a sealing mechanism is capable of maintaining the composition in an air-tight and water proof conditions. Thus, it would have been obvious to one having ordinary skill in the art to modify the article of Streit et al to include an outer peelable vapor-impermeable membrane in order to prevent volatilization of the air freshener medium

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through the permeable membrane from the reservoir enclosure (Martin et al, col.2, lines 45-49).

With respect to claim 35, Streit et al teaches that the article includes a holder (col.3, lines 46-47).

### **Conclusion**

12. The prior art made of record but not relied upon is considered pertinent to applicant's disclosure. Kellett et al (U.S.P.N. 5,034,222) teaches similar process and article for treating in door air.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to MONZER R CHORBAJI whose telephone number is (571) 272-1271. The examiner can normally be reached on M-F 8:30-5:00.

14. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, ROBERT J WARDEN can be reached on (571) 272-1281. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

15. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

Monzer R. Chorbaji *MRC*  
Patent Examiner  
AU 1744  
01/12/2004

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